



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466

AUG - 3 2005

Ref: 8ENF-W

CERTIFIED MAIL

RETURN RECEIPT REQUESTED 7003 2260 0001 7791 5718

Johnson County Commissioners
c/o James Mader, Chair
76 N. Main Street
Buffalo, WY 82834

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Red Top Fuel, LLC PWS ID #5601453

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of certain enforcement actions taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the Red Top Fuel, LLC, Buffalo, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The owners are in violation of 40 C.F.R. §§ 141.21, 141.201, 141.21(g)(2) and 141.31(b) for failing to monitor for total coliform; provide public notice of the violations; and to report SDWA violations to EPA.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

Ref: 8ENF-W

AUG - 3 2005

CERTIFIED MAIL

RETURN RECEIPT REQUESTED 7003 2260 0001 7791 5695

Johanna Sickler, Registered Agent
Red Top Fuel, LLC
1121 S. Main
Buffalo, WY 82834

Re: Administrative Order
Docket No. **SDWA-08-2005-0043**
PWS ID #5601453

Dear Mrs. Sickler:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Red Top Fuel, LLC ("Red Top") is a supplier of water as defined by the SDWA and that Red Top has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21, 141.201, 141.21(g)(2), and 141.31(b) for failing to monitor for total coliform; failing to provide public notice of the violations; and for failing to report SDWA violations to EPA.

If Red Top complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering Red Top to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA. A brochure entitled "Funding Options for Privately-Owned Public Water Systems in Wyoming" is also enclosed as well as a public notice template.




Printed on Recycled Paper

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Kathelene Brainich at the address on the letterhead and include the mailcode 8ENF-W, or call (800) 227-8917, extension 6481 or (303) 312-6481. If you wish to have in informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please ask your attorney to direct any legal questions to Peggy Livingston, Enforcement Attorney, at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,


Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
SBREFA
Funding Brochure
public notice template

cc: Gary Marshall, Owner, Red Top Fuel Stop
WY DEQ (via email)
WY DOH (via email)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2005 AUG -8 AM 12:46 *(unc)*

IN THE MATTER OF

Red Top Fuel, LLC
Buffalo, Wyoming

Respondent

Proceedings under Section 1414(g)
of the Safe Drinking Water Act,
42 U.S.C. § 300g-3(g)

FILED
EPA REGION VIII
HEADING CLERK

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2005-0043**

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Red Top Fuel, LLC (Respondent) is a limited liability company under the laws of the State of Wyoming as of March 2003 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Red Top Fuel Stop Water System (the "System"), located in Johnson County, Wyoming, for the provision to the public of piped water for human consumption.
3. The Red Top Fuel Stop Water System has at least 15 service connections or regularly serves an average of

at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a May 25, 2004 sanitary survey by an agent for EPA, the System is supplied by a groundwater source consisting of one well with no treatment. The System serves approximately 25 persons through 1 service connection and is operational all year.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires any non-community public water system with an average daily population of less than 1,001 and having a groundwater source to monitor its water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for

total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondent failed to monitor the water for contamination by total coliform bacteria during the 3rd (July-September) quarters of 2003 and 2004, 4th (October-December) quarter of 2004, and the 1st (January-March) quarter of 2005, in violation of 40 C.F.R. § 141.21.

II.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulations (NPDWR) violations, including violations of the maximum contaminant level, maximum residual disinfection level, treatment technique, monitoring requirements, and testing procedures in 40 C.F.R. part 141.
2. Respondent has not provided public notice of the 3rd quarter 2003 noncompliance detailed in the preceding Section I, in violation of 40 C.F.R. § 141.201. Public notice is not yet past due for the other violations.

III.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the

violation to EPA within ten days after the system discovers the violation.

2. Respondent failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(2).

IV.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring.
Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
2. Within 30 days from the effective date of this Order, Respondent must comply with the public notice

requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205 for the violations specified under the Findings of Violation in this Order. Specifically, Respondent must provide public notice in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

3. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
4. Except where a different reporting period is specified in paragraph 3 above, upon the effective date of this Order Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
5. Reporting requirements specified in this Order shall be provided by certified mail to:

U.S. EPA Region 8 (8P-W-MS)
999 18th Street, Suite 300
Denver, CO 80202-2466

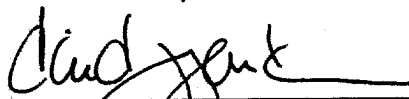
GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500 under Section 1414(g)(3)(B) of the Act, 42

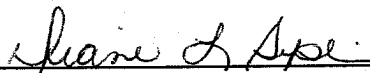
U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(A) and (C) of the Act, 42 U.S.C. § 300g-3(g)(3)(A) and (C).

3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this ~~4th~~ ^{3rd} day of August, 2005.



Michael T. Fisher, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

DRINKING WATER NOTICE

Monitoring requirements not met for RED TOP FUEL STOP

We violated a drinking water standard. Even though this was not an emergency, as our customers, you have a right to know what happened and what we are doing to correct this situation.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During 2003 through 2005 we did not monitor for bacteriological quality (total coliform) and therefore cannot be sure of the quality of our drinking water during that time.

What This Means

There is nothing you need to do at this time. The table below lists the contaminant(s) we did not properly test for, how often we are supposed to sample for [it/them] and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	Number of samples taken	When all samples should have been taken	When samples were or will be taken
total coliform	quarterly	0	1 st quarter 2005, 4 th quarter 2004, 3 rd quarter 2003 & 2004	1 st through 3 rd quarter 2004

Steps We Are Taking

[Describe corrective action.]

Will monitor as required in the future. _____

For more information, please contact Gary Marshall at 307-684-5507.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

Posted from: _____ to: _____ or date mailed/hand delivered: _____ Signature: _____

Note: send to EPA when completed; keep a copy for your records.

Instructions for Monitoring Violation Notice–Template NC-4

Template on Reverse

Since most monitoring violations are included in Tier 3, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Non-community systems must use one of the following methods (141.204(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, you must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newsletters, e-mail, or delivery to community organizations. The language to encourage distribution of the notice is included on this notice; however, if you post this notice, omit the mandatory language to encourage distribution, as it is not needed since posting makes the notice available to everyone who passes by.

You must post the notice until the violation is resolved. If the violation has been resolved, you must post the notice for at least one week (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for an annual notice combining notification for several violations, as well as for notices for individual violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations *initials* (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

Corrective Actions

In your notice describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

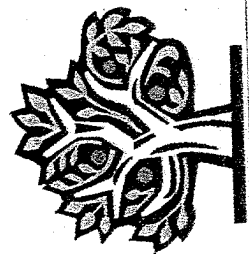
After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).

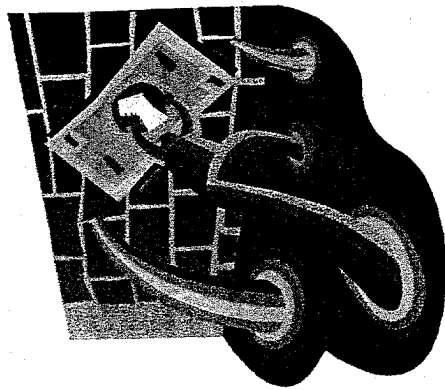
WYOMING

WATER/WASTEWATER TASK FORCE

Governor Jim Geringer established the Wyoming Water/Wastewater Task Force in 2001 as an interagency effort to reduce the likelihood of waterborne disease outbreaks in Wyoming. Government agencies represented on the Task Force include the Wyoming Department of Agriculture, Wyoming Department of Health, Wyoming Department of Environmental Quality, several county health departments, and the U.S. Environmental Protection Agency.



FUNDING OPTIONS FOR PRIVATELY-OWNED PUBLIC WATER SYSTEMS IN WYOMING





U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers: <http://www.epa.gov/clearinghouse>

Pollution Prevention Clearinghouse
<http://www.epa.gov/opptintr/library/ppicindex.htm>

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs:
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Program
<http://www.epa.gov/ttn/sbap>

Office of Enforcement and Compliance Assurance
<http://www.epa.gov/compliance>

Compliance Assistance Home Page
<http://www.epa.gov/compliance/assistance>

Office of Regulatory Enforcement
<http://www.epa.gov/compliance/civil/index.html>

Office of Site Remediation Enforcement
<http://www.epa.gov/compliance/cleanup>

Innovative Programs for Environmental Performance
<http://www.epa.gov/partners>

Small Business Ombudsman
www.sba.gov/ombudsman

